

**NOTE CHANGES MADE BY THE COURT**

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

IOU INTERNATIONAL, INC., a  
California Corporation, individually and  
doing business as VISION  
INTERNATIONAL 1, INC.,

Plaintiff,

v.

MIDTHRUST IMPORTS, INC., a  
California Corporation; and DOES 1-10,  
  
Defendants.

Case No.: CV15-000160-ODW(ASx)  
Honorable Otis D. Wright II Presiding  
Referred to Hon. Alka Sagar

[DISCOVERY MATTER]

**(PROPOSED) STIPULATED  
PROTECTIVE ORDER**

Having considered the parties' pleadings on file to date, and the parties' jointly submitted Stipulation for Entry of a Protective Order to govern the handling of information and materials produced in the course of discovery or filed with the Court in this action, the Court determines as follows:

## GOOD CAUSE STATEMENT

It is the intent of the parties and the Court that information will not be designated as confidential in this case for tactical reasons, and that nothing shall be designated without a good faith belief that there is good cause why it should not be part of the public record. Examples of confidential information that the parties may seek to protect from unrestricted or unprotected disclosure include, but are not limited to:

- (a) Information that is the subject of a contractual non-disclosure or confidentiality agreement or obligation, and/or Protective Order issued in another case;
- (b) The names, or other information tending to reveal the identity of a party's supplier, distributor, or designer;
- (c) Agreements with third-parties, including license agreements, distributor agreements, manufacturing agreements, design agreements, development agreements, supply agreements, sales agreements, or service agreements;
- (d) Research and development information;
- (e) Proprietary engineering or technical information, including product design, manufacturing techniques, processing information, drawings, memoranda and reports;
- (f) Information related to budgets, sales, profits, costs, margins, licensing of technology or designs, product pricing, or other internal financial/accounting information, including non-public information related to financial condition or performance and income or other non-public tax information;
- (g) Information related to internal operations including personnel information;

- (h) Information related to past, current and future product development;
- (i) Information related to past, current and future market analyses and business and marketing development, including plans, strategies, forecasts and competition; and
- (j) Trade secrets (as defined by the jurisdiction in which the information is located).

WHEREAS discovery and investigation in this action is likely to involve information that is held by the parties as confidential information;

WHEREAS unrestricted or unprotected disclosure of such information would result in harm to the disclosing party;

NOW THEREFORE, pursuant to Fed.R.Civ.P. 26(c), the parties to this lawsuit, through undersigned counsel, agree that there is good cause for a protective order, the following terms and conditions shall apply to this civil action:

1. PURPOSES AND LIMITATIONS

Disclosure and discovery activity in this action are likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this matter would be warranted. Accordingly, the parties hereby stipulate to and petition this Court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords extends only to the limited information or items that are entitled under the applicable legal principles to treatment as confidential. The parties have agreed that the terms of this Protective Order shall also apply to any future voluntary disclosures of confidential, proprietary, or private information. The parties reserve their rights to object to or withhold any information,

1 including confidential, proprietary, or private information, on any other applicable  
2 grounds permitted by law, including third-party rights and relevancy.

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4 2. DEFINITIONS

5 2.1 Party: any party to this action, including all of its officers,  
6 directors, employees, consultants, retained experts, and outside counsel (and their  
7 support staff).

8 2.2 Disclosure or Discovery Material: all items or information,  
9 regardless of the medium or manner generated, stored, or maintained (including,  
10 among other things, testimony, transcripts, or tangible things), that are produced or  
11 generated in disclosures or responses to discovery in this matter.

12 2.3 “Confidential” Information or Items: information (regardless of  
13 how generated, stored, or maintained) or tangible things that qualify for protection  
14 under standards developed under Fed. R. Civ. P. 26(c).

15 2.4 “Attorneys’ Eyes Only”: Discovery Material or such portion of  
16 such material as consists of:

17 a) any commercially sensitive and/or confidential business or  
18 financial information (including without limitation confidential nonpublic contracts,  
19 profitability reports or estimates, sales reports, and sales margins) which could  
20 reasonably create a competitive disadvantage if disclosed to the parties in this action;

21 b) any business or financial information that is confidential,  
22 proprietary, or commercially sensitive to third parties who have had business dealings  
23 with parties to this action; or

24 c) any other category of material or information hereinafter given  
25 Confidential status by the Court, to the extent said material could reasonably create a  
26 competitive disadvantage if disclosed to the parties in this action.



1 The protections conferred by this Stipulation and Order cover not only  
2 Protected Material (as defined above), but also any information copied or extracted  
3 therefrom, as well as all copies, excerpts, summaries, or compilations thereof, plus  
4 testimony, conversations, or presentations by parties or counsel to or in litigation or in  
5 other settings that might reveal Protected Material. Any use of Protected Material  
6 shall be governed by the Orders of the trial Judge. This order does not govern the use  
7 of Protected Material at trial.

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9 4. DURATION

10 Even after the termination of this action, the confidentiality obligations  
11 imposed by this Order shall remain in effect until a Designating Party agrees  
12 otherwise in writing or a court order otherwise directs.

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14 5. DESIGNATING PROTECTED MATERIAL

15 5.1 Exercise of Restraint and Care in Designating Material for  
16 Protection. Each Party or non-party that designates information or items for  
17 protection under this Order must take care to limit any such designation to specific  
18 material that qualifies under the appropriate standards. A Designating Party must take  
19 care to designate for protection only those parts of material, documents, items, or oral  
20 or written communications that qualify – so that other portions of the material,  
21 documents, items, or communications for which protection is not warranted are not  
22 swept unjustifiably within the ambit of this Order.

23 Mass, indiscriminate, or routinized designations are prohibited.  
24 Designations that are shown to be clearly unjustified, or that have been made for an  
25 improper purpose (*e.g.*, to unnecessarily encumber or retard the case development  
26 process, or to impose unnecessary expenses and burdens on other parties), expose the  
27 Designating Party to sanctions.

1           If it comes to a Party's or a non-party's attention that information or  
2 items that it designated for protection do not qualify for protection at all, or do not  
3 qualify for the level of protection initially asserted, that Party or non-party must  
4 promptly notify all other parties that it is withdrawing the mistaken designation.

5           5.2 Manner and Timing of Designations. Except as otherwise  
6 provided in this Order (*see, e.g.*, second paragraph of section 5.2(a), below), or as  
7 otherwise stipulated or ordered, material that qualifies for protection under this Order  
8 must be clearly so designated before the material is disclosed or produced.

9           Designation in conformity with this Order requires:

10           (a) for information in documentary form (apart from transcripts  
11 of depositions or other pretrial or trial proceedings), that the Producing Party affix the  
12 legend "CONFIDENTIAL" or "ATTORNEYS' EYES ONLY" at the top or bottom  
13 of each page that contains protected material.

14           A Party or non-party that makes originals or copies of documents  
15 or materials available for inspection need not designate them for protection until after  
16 the inspecting Party has indicated which material it intends to copy. During the  
17 inspection and before the designation, all of the material made available for  
18 inspection shall be deemed "ATTORNEYS' EYES ONLY." After the inspecting  
19 Party has identified the documents it wants copied and produced, the Producing Party  
20 must designate, either in writing or on the record (at a deposition), which documents,  
21 or portions thereof, qualify for protection under this Order. Then the Receiving Party  
22 must affix the "CONFIDENTIAL" or "ATTORNEYS' EYES ONLY" legend at the  
23 top of each copied page that contains Protected Material. If only a portion or portions  
24 of the material on a page qualifies for protection, the Producing Party also must  
25 clearly identify the protected portion(s) (*e.g.*, by making appropriate markings in the  
26 margins) and must specify, for each portion, the level of protection being asserted  
27 (either "CONFIDENTIAL" or "ATTORNEYS' EYES ONLY").

(b) for testimony given in deposition or in other pretrial or trial proceedings, that the Party or non-party offering or sponsoring the testimony identify on the record, before the close of the deposition, hearing, or other proceeding, all protected testimony, and further specify any portions of the testimony that qualify as “CONFIDENTIAL” or “ATTORNEYS’ EYES ONLY.” When it is impractical to identify separately each portion of testimony that is entitled to protection, and when it appears that substantial portions of the testimony may qualify for protection, the Party or non-party that sponsors, offers, or gives the testimony may invoke on the record (before the deposition or proceeding is concluded) a right to have up to 20 days to identify the specific portions of the testimony as to which protection is sought and to specify the level of protection being asserted (“CONFIDENTIAL” or “ATTORNEYS’ EYES ONLY”). Only those portions of the testimony that are appropriately designated for protection within the 20 days shall be covered by the provisions of this Stipulated Protective Order.

Transcript pages containing Protected Material must be separately bound by the court reporter, who must affix to the top of each such page the legend “CONFIDENTIAL” or “ATTORNEYS’ EYES ONLY,” as instructed by the Party or non-party offering or sponsoring the witness or presenting the testimony.

(c) for information produced in some form other than documentary, and for any other tangible items, that the Producing Party affix in a prominent place on the exterior of the container or containers in which the information or item is stored the legend “CONFIDENTIAL” or “ATTORNEYS’ EYES ONLY.” If only portions of the information or item warrant protection, the Producing Party, to the extent practicable, shall identify the protected portions, specifying whether they qualify as “CONFIDENTIAL” or as “ATTORNEYS’ EYES ONLY.”



1           5.3 Inadvertent Failures to Designate. If timely corrected, an  
 2 inadvertent failure to designate qualified information or items as “CONFIDENTIAL”  
 3 or “ATTORNEYS’ EYES ONLY” does not, standing alone, waive the Designating  
 4 Party’s right to secure protection under this Order for such material. If material is  
 5 appropriately designated as “CONFIDENTIAL” or “ATTORNEYS’ EYES ONLY”  
 6 after the material was initially produced, the Receiving Party, on timely notification  
 7 of the designation, must make reasonable efforts to assure that the material is treated  
 8 in accordance with the provisions of this Order.

## 10           6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

11           6.1 Timing of Challenges. Unless a prompt challenge to a  
 12 Designating Party’s confidentiality designation is necessary to avoid foreseeable  
 13 substantial unfairness, unnecessary economic burdens, or a later significant disruption  
 14 or delay of the litigation, a Party does not waive its right to challenge a confidentiality  
 15 designation by electing not to mount a challenge promptly after the original  
 16 designation is disclosed. Any challenges to a designation of confidentiality must be  
 17 consistent with the Court’s Scheduling Order.

18           6.2 Meet and Confer. A Party that elects to initiate a challenge to a  
 19 Designating Party’s confidentiality designation must do so in good faith and must  
 20 begin the process under Local Rule 37.1 et seq; by conferring with counsel for the  
 21 Designating Party in writing. In conferring, the challenging Party must explain the  
 22 basis for its belief that the confidentiality designation was not proper and must give  
 23 the Designating Party an opportunity to review the designated material, to reconsider  
 24 the circumstances, and, if no change in designation is offered, to explain the basis for  
 25 the chosen designation. A challenging Party may proceed to the next stage of the  
 26 challenge process only if it has engaged in this meet-and-confer process first.

27           6.3 Court Intervention. A Party that elects to press a challenge to a  
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1 confidentiality designation after considering the justification offered by the  
2 Designating Party may file and serve a motion that identifies the challenged material  
3 and sets forth in detail the basis for the challenge. Each such motion must be  
4 accompanied by a competent declaration that affirms that the movant has complied  
5 with the meet-and-confer requirements imposed in the preceding paragraph and that  
6 sets forth with specificity the justification for the confidentiality designation that was  
7 given by the Designating Party in the meet-and-confer dialogue. The parties agree  
8 that a confidentiality designation shall not create a presumption in favor of such  
9 confidentiality designation, and that the Court shall decide the issue as such.

10           Until the Court rules on the challenge, all parties shall continue to afford  
11 the material in question the level of protection to which it is entitled under the  
12 Producing Party's designation.

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14           7.     ACCESS TO AND USE OF PROTECTED MATERIAL

15           7.1    Basic Principles. A Receiving Party may use Protected Material  
16 that is disclosed or produced by another Party or by a non-party in connection with  
17 this case only for prosecuting, defending, or attempting to settle this litigation. Such  
18 Protected Material may be disclosed only to the categories of persons and under the  
19 conditions described in this Order. When the litigation has been terminated, a  
20 Receiving Party must comply with the provisions of section 11, below (FINAL  
21 DISPOSITION).

22           Protected Material must be stored and maintained by a Receiving Party  
23 at a location and in a secure manner that ensures that access is limited to the persons  
24 authorized under this Order.

25           7.2    Disclosure of "CONFIDENTIAL" Information or Items. Unless  
26 otherwise ordered by the Court or permitted in writing by the Designating Party, a  
27 Receiving Party may disclose any information or item designated

1 “CONFIDENTIAL” only to:

2 (a) the Receiving Party’s outside counsel, as well as employees  
3 of said outside counsel to whom it is reasonably necessary to disclose the information  
4 for this litigation;

5 (b) Board members, officers and directors of the Receiving  
6 Party;

7 (c) Other employees of the Receiving Party to whom disclosure  
8 is reasonably necessary for this litigation and who are bound by internal  
9 confidentiality obligations as part of their employment or who have signed the  
10 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

11 (d) Experts (as defined in this Order) of the Receiving Party to  
12 whom disclosure is reasonably necessary for this litigation and who have signed the  
13 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

14 (e) the Court personnel assigned to this litigation;

15 (f) court reporters, their staffs, and professional vendors to  
16 whom disclosure is reasonably necessary for this litigation and who have signed the  
17 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

18 (g) during their depositions, witnesses in the action to whom  
19 disclosure is reasonably necessary and who have signed the “Acknowledgment and  
20 Agreement to Be Bound” (Exhibit A). Pages of transcribed deposition testimony or  
21 exhibits to depositions that reveal Protected Material must be separately bound by the  
22 court reporter and may not be disclosed to anyone except as permitted under this  
23 Stipulated Protective Order; and

24 (h) the author and recipients of the document or the original  
25 source of the information.

26 7.3 Disclosure of “ATTORNEYS’ EYES ONLY” Information or  
27 Items. Unless otherwise ordered by the Court or permitted in writing by the

1 Designating Party, a Receiving Party may disclose any information or item  
2 designated “ATTORNEYS’ EYES ONLY” only to:

3 (a) the Receiving Party’s outside counsel, as well as employees  
4 of said outside counsel to whom it is reasonably necessary to disclose the information  
5 for this litigation;

6 (b) Experts (as defined in this Order) of the Receiving Party to  
7 whom disclosure is reasonably necessary for this litigation and who have signed the  
8 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

9 (c) the Court personnel assigned to this litigation;

10 (d) court reporters, their staffs, and professional vendors to  
11 whom disclosure is reasonably necessary for this litigation and who have signed the  
12 “Acknowledgment and Agreement to Be Bound” (Exhibit A); and

13 (e) the author and recipients of the document or the original  
14 source of the information.

15 7.4 Nothing in this Order shall prevent the prosecution of claims against  
16 additional potential defendants identified in Protected Material.

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18 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED  
19 PRODUCED IN OTHER LITIGATION

20 If a Receiving Party is served with a subpoena or an order issued in other  
21 litigation that would compel disclosure of any Discovery Material, the Receiving  
22 Party must so notify the Designating Party, in writing immediately and in no event  
23 more than five business days after receiving the subpoena or order. Such notification  
24 must include a copy of the subpoena or court order unless prohibited by law. The  
25 Receiving Party also must immediately inform in writing the Party who caused the  
26 subpoena or order to issue in the other litigation that some or all of the material  
27 covered by the subpoena or order is the subject of this Protective Order. In addition,

1 the Receiving Party must deliver a copy of this Stipulated Protective Order promptly  
2 to the Party in the other action that caused the subpoena or order to issue.

3 The purpose of imposing these duties is to alert the interested parties to the  
4 existence of this Protective Order and to afford the Designating Party in this case an  
5 opportunity to try to protect its confidentiality interests in the court from which the  
6 subpoena or order issued. The Designating Party shall bear the burdens and the  
7 expenses of seeking protection in that court of its confidential material – and nothing  
8 in these provisions should be construed as authorizing or encouraging a Receiving  
9 Party in this action to disobey a lawful directive from another court.

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11 9. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

12 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed  
13 Protected Material to any person or in any circumstance not authorized under this  
14 Stipulated Protective Order, the Receiving Party must immediately (a) notify in  
15 writing the Designating Party of the unauthorized disclosures, (b) use its best efforts  
16 to retrieve all copies of the Protected Material, (c) inform the person or persons to  
17 whom unauthorized disclosures were made of all the terms of this Order, and (d)  
18 request such person or persons to execute the “Acknowledgment and Agreement to  
19 Be Bound” that is attached hereto as Exhibit A.

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21 10. FILING PROTECTED MATERIAL

22 Without written permission from the Designating Party, or a court order  
23 secured after appropriate notice to all interested persons and after following the  
24 procedures provided for in Local Rule 79-5.1, a Party may not file in the public  
25 record in this action any Protected Material. If a Party’s request to file Protected  
26 Material under seal is denied by the court, then the Receiving Party may file the  
27 information in the public record unless instructed by the court.

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3       11.    FINAL DISPOSITION

4       Unless otherwise ordered or agreed to in writing by the Producing Party, within  
5 60 days after the final termination of this action, each Receiving Party must either  
6 return all Protected Material to the Producing Party or certify the destruction of said  
7 material. As used in this subdivision, “all Protected Material” includes all copies,  
8 abstracts, compilations, summaries or any other form of reproducing or capturing any  
9 of the Protected Material. Whether the Protected Material is returned or destroyed, the  
10 Receiving Party must submit a written certification to the Producing Party (and, if not  
11 the same person or entity, to the Designating Party) by the 60-day deadline that  
12 identifies (by category, where appropriate) all the Protected Material that was  
13 returned or destroyed and that affirms that the Receiving Party has not retained any  
14 copies, abstracts, compilations, summaries or other forms of reproducing or capturing  
15 any of the Protected Material.

16       Notwithstanding this provision, counsel are entitled to retain an archival copy  
17 of all pleadings, motion papers, transcripts, legal memoranda, correspondence or  
18 attorney work product, even if such materials contain Protected Material. Any such  
19 archival copies that contain or constitute Protected Material remain subject to this  
20 Protective Order as set forth in Section 4 (DURATION), above.

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22       12.    MISCELLANEOUS

23       12.1   Right to Further Relief. Nothing in this Order abridges the right  
24 of any person to seek its modification in the future.

25       12.2   Right to Assert Other Objections. By stipulating to the entry of  
26 this Protective Order no Party waives any right it otherwise would have to object to  
27 disclosing or producing any information or item on any ground not addressed in this  
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1 Stipulated Protective Order. Similarly, no Party waives any right to object on any  
2 ground to use in evidence of any of the material covered by this Protective Order.

3           12.3 Inadvertent Production of Privileged Documents. If a Party,  
4 through inadvertence, produces any document or information that it believes is  
5 immune from discovery pursuant to an attorney-client privilege, the work product  
6 privilege, or any other privilege, such production shall not be deemed a waiver of any  
7 privilege, and the Producing Party may give written notice to the Receiving Party that  
8 the document or information produced is deemed privileged and that return of the  
9 document or information is requested. Upon receipt of such notice, the Receiving  
10 Party shall immediately gather the original and all copies of the document or  
11 information of which the Receiving Party is aware, in addition to any abstracts,  
12 summaries, or descriptions thereof, and shall immediately return the original and all  
13 such copies to the Producing Party. Nothing stated herein shall preclude a Party from  
14 challenging an assertion by the other Party of privilege or confidentiality.

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16 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

17  
18 Date: August 4, 2015, 2015

\_\_\_\_\_  
19 HON. ALKA SAGAR  
20 United States Magistrate Judge  
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EXHIBIT AACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, \_\_\_\_\_ [print full name], of \_\_\_\_\_ [print full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Central District of California in the case of *IOU International, Inc., v. Midthrust Imports, Inc., et al.*, Case No. CV15-000160-ODW-(ASx). I agree to comply with and to be bound by all of the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Central District of California for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action.

I hereby appoint \_\_\_\_\_ [print full name] of \_\_\_\_\_ [print full address and telephone number] as my California agent for service of process in connection with this action or any proceedings related to enforcement of this Stipulated Protective Order.

Date: \_\_\_\_\_

City and State where sworn and signed: \_\_\_\_\_

Printed name: \_\_\_\_\_

Signature: \_\_\_\_\_